

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5245 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

CHANDLODIA SEVA SAHKARI MANDALI LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5245 of 1999
MR HARIN P RAVAL for Petitioner No. 1
NOTICE SERVED BY DS for Respondent No. 1-5,7
MR YN OZA for Respondent No. 6

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 07/10/2004

ORAL JUDGEMENT

In this petition under Article 226/227 of the Constitution of India the petitioner society has challenged the legality and validity of the order passed by the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar, dated 12th July 1999 in Suo Motu Revision No. 43 of 1999 by which the Additional Registrar (Appeals) while exercising power

under Section 155 of the Gujarat Cooperative Societies Act cancelled the registration of the petitioner society.

2. Shri P.S. Champaneri, learned advocate who appears on behalf of Shri Harin P. Raval for the petitioner has submitted that before passing the impugned order adequate opportunity of hearing is not being given to the petitioner society. He has further submitted that in fact the Additional Registrar has observed that when the notice was sent to the petitioner society the same could not be served as nobody was found and only on the basis of Panchnama the impugned order has been passed. It is an admitted position that before passing the impugned order dated 12th July 1999 the petitioner society was not heard and summons were not served upon the petitioner society. In that view of the matter, the impugned order dated 12th July 1999, passed by the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar, in Suo Motu Revision No. 43 of 1999, is required to be quashed and set aside and the same is passed in violation of principles of natural justice and accordingly it is required to be quashed and set aside and it is quashed and set aside. The Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar is directed to pass an appropriate order after giving opportunity to the petitioner-society and in accordance with law and on merits and without in any way being influenced by his earlier order dated 12th July 1999 which is quashed by this Court only on the ground that the petitioner was not heard. Rule is made absolute to the aforesaid extent with no order as to costs.

rmr. [M.R. Shah, J.]